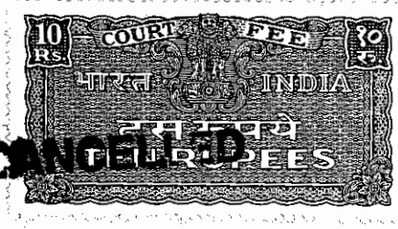
CANCELLED



CANCELLED

3

(1)

माननीय छत्तीसगढ़ उच्च न्यायालय, बिलासपुर (छ.ग.)

(एम.ए. क्रमांक 356/2005) Division Bench

अपीलार्थी
अनावेदक क्रमांक-3, ... नेशनल इंश्योरेन्स कम्पनी लिमिटेड,
द्वारा शाखा प्रबंधक,
बी-1, ताहा -काम्पलेक्स,
रिंग रोड नम्बर-2,
प्रियदर्शनी नगर, बिलासपुर

-- विरूद्ध --

उत्तरवादी
अावेदक .... 1. भगवतीप्रसादी कश्यप
आत्मज घोवाराम कश्यप
आयु 32 साल,
निवासी ग्राम ठरकपुर
तहसील सीपत
जिला बिलासपुर

P.R. No. 1533/05
Presented by Shri Anand K. Gupta
dated 14-03-05

उत्तरवादी-गण
अनावेदक क्रमांक-1 तथा 2, ... 2. रामकुमार आत्मज गेन्दराम
आयु 32 साल,
ग्राम सीपत
तहसील सीपत
जिला बिलासपुर
3. श्रवण कुमार कौशिक
आत्मज स्व0 तहसराम कौशिक
ग्राम ठरकपुर
तहसील सीपत
जिला बिलासपुर

अपील अन्तर्गत धारा-173 मोटर व्हीकल एक्ट 1988

HIGH COURT OF JUDICATURE CHHATTISGARH: BILASPUR
(Division Bench)

CORAM : **Hon'ble Shri S.R. NAYAK, CJ**
& Hon'ble Shri Satish K. Agnihotri, J.

MISC. APPEAL NO.356 OF 2005

National Insurance Co. Ltd.

Versus

Bhagwati Prasad Kashyap and others.

Present: Mr. Shree Kumar Agrawal, Sr. Adv., with Mr. Anand Gupta learned counsel for the appellant.

O R D E R
(Passed on 21st of November 2005)

The following Order of the Court was passed by

S.R. Nayak, CJ:

The award passed by the MACT has been assailed by the appellant-Insurance Company solely on the ground that on the date of accident the driver of the motor vehicle involved in the accident did not have the effective valid licence and therefore the liability cannot be fastened on the Insurance Company. This contention put forth by learned counsel for the appellant at the time of argument is required to be noticed only to be rejected. We say this because admittedly this plea was not at all taken in the written statement filed by the Insurance Company before the MACT. The question whether the driver of the motor vehicle involved in the accident had valid and effective licence on the date of the accident is undeniably a question of fact. Unless that plea was taken in the pleadings of the Insurance Company before the MACT, consideration of the argument advanced on behalf of the Insurance Company by its

standing counsel in the appeal would never arise. The ground is misconceived. No other points were urged before us at the time of hearing. The appeal is devoid of merit and it is accordingly dismissed, however, with no costs.

Sd/-
Chief Justice

Sd/-
Satish K. Agnihotri
Judge